

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

LINDA M. FIGURA, SP 2011-MA-071 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction of minimum yard requirements based on error in building locations to permit deck to remain 8.4 ft., patio 2.2 ft. and stoop 6.9 ft. from side lot lines, and accessory storage structure to remain 6.8 ft. from rear lot line and 2.7 ft. from side lot line. Located at 6408 Second St., Alexandria, 22312, on approx. 5,500 sq. ft. of land zoned R-2 and HC. Mason District. Tax Map 72-3 ((8)) (B) 36 and 37. Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 28, 2011; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the property.
2. The applicant has presented testimony showing compliance with the required standards.
3. The stoop, deck, and patio do not seem to be bothering anyone.
4. The patio is at grade, and given the existing fences and configuration of the lot, it would be very difficult for anyone to see much of it anyway.
5. The applicant did not do the deck in this location without a permit. She hired a contractor to do it, and it was the contractor that messed up.
6. The deck also is barely closer to the lot line than the existing house.
7. It appears to be an attractive and well-constructed deck.
8. If the deck is permanent and inspected, there should not be any problem with it.
9. The steps on the other side are relatively modest.
10. The steps are closer to the house than even the air conditioner and should not be a problem.
11. The shed in the back is not in an ideal location, but it seems to have been there for a long time.
12. With the topography, it is somewhat concealed.
13. There are fences around it, making it mostly difficult to see except for the roof.
14. Given the topography on the lot and the existing landscaping, it would not be appropriate to have to move that.
15. This is a very narrow property. It is actually two little lots put together, but still only 50 feet wide.
16. Given all this, there is not going to be any significant negative impact on anyone.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. That the error exceeds ten (10) percent of the measurement involved;
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required;

- C. Such reduction will not impair the purpose and intent of this Ordinance;
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;
- E. It will not create an unsafe condition with respect to both other property and public streets;
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
- 2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

- 1. This special permit is approved only for the location of a deck, at-grade patio, stoop and an accessory storage structure (frame shed), as shown on the plat prepared by Alexandria Surveys International, LLC, dated October 14, 2010 as revised through May 6, 2011, submitted with this application and is not transferable to other land.
- 2. All applicable permits and final inspections shall be obtained for the deck within 120 days of approval of this special permit or the structure shall be removed or relocated to comply with applicable Zoning Ordinance provisions.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Mr. Hammack seconded the motion, which carried by a vote of 5-0. Ms. Gibb and Mr. Byers were absent from the meeting.